

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

VIASAT, INC., et al.,

Plaintiffs,

v.

ACACIA COMMUNICATIONS, INC.,
etc., et al.,

Defendants.

Case No.: 16cv463 BEN (JMA)

**SCHEDULING ORDER
REGULATING DISCOVERY
AND OTHER PRE-TRIAL
PROCEEDINGS**

Pursuant to Rule 16.1(d) of the Local Rules, a Case Management Conference was held on **August 31, 2016**. After consulting with the attorneys of record for the parties and being advised of the status of the case, and good cause appearing, **IT IS HEREBY ORDERED:**

1. Any motion to join other parties, to amend the pleadings, or to file additional pleadings shall be filed by **October 31, 2016**.

2. A telephonic Case Management Conference shall be held on **December 15, 2016** at **9:30 a.m.** before Magistrate Judge Adler. All counsel shall appear telephonically at this conference, and shall use the following call-in information: Dial-in Number 866-590-5055, Access Code 2275709.

3. All fact discovery shall be completed by all parties by **May 1, 2017**.

1 “Completed” means that all discovery under Rules 30-36 of the Federal Rules of
 2 Civil Procedure, and discovery subpoenas under Rule 45, must be initiated a
 3 sufficient period of time in advance of the cut-off date, **so that it may be**
 4 **completed** by the cut-off date, taking into account the times for service, notice
 5 and response as set forth in the Federal Rules of Civil Procedure. **Counsel**
 6 **shall promptly and in good faith meet and confer with regard to all**
 7 **discovery disputes in compliance with Civil Local Rule 26.1(a).** The Court
 8 expects counsel to make every effort to resolve all disputes without court
 9 intervention through the meet and confer process. If the parties reach an
 10 impasse on any discovery issue, counsel shall file an appropriate motion within
 11 the time limit and procedures outlined in the undersigned magistrate judge’s
 12 chambers rules. **A failure to comply in this regard will result in a waiver of a**
 13 **party’s discovery issue. Absent an order of the court, no stipulation**
 14 **continuing or altering this requirement will be recognized by the court.**

15 4. By **June 1, 2017**, each party shall comply with the disclosure
 16 provisions in Rule 26(a)(2)(A) and (B) of the Federal Rules of Civil Procedure.
 17 This disclosure requirement applies to all persons retained or specially employed
 18 to provide expert testimony, or whose duties as an employee of the party
 19 regularly involve the giving of expert testimony. **Except as provided in the**
 20 **paragraph below, any party that fails to make these disclosures shall not,**
 21 **absent substantial justification, be permitted to use evidence or testimony**
 22 **not disclosed at any hearing or at the time of trial. In addition, the Court**
 23 **may impose sanctions as permitted by Federal Rule of Civil Procedure**
 24 **37(c).**

25 5. Any party shall supplement its disclosure regarding contradictory or
 26 rebuttal evidence under Federal Rules of Civil Procedure 26(a)(2)(D) and 26(e)
 27 by **June 30, 2017**.

28 6. All expert discovery shall be completed by all parties by **August 1,**

1 **2017**. The parties shall comply with the same procedures set forth in the
2 paragraph governing fact discovery. Failure to comply with this section or any
3 other discovery order of the court may result in the sanctions provided for in
4 Federal Rule of Civil Procedure 37, including a prohibition on the introduction of
5 experts or other designated matters in evidence.

6 7. All other pretrial motions must be filed by **August 28, 2017**. Counsel
7 for the moving party must obtain a motion hearing date from the law clerk of the
8 judge who will hear the motion. The period of time between the date you request
9 a motion date and the hearing date may vary from one district judge to another.
10 Please plan accordingly. Failure to make a timely request for a motion date may
11 result in the motion not being heard. Deadlines for filing motions in limine will be
12 set by the district judge at the final Pretrial Conference.

13 8. When filing a Motion for Summary Judgment and/or Adjudication, the
14 parties need not file a separate statement of material facts absent prior leave of
15 court.

16 9. A Mandatory Settlement Conference shall be conducted on **October**
17 **30, 2017** at **10:00 a.m.** in the chambers of Magistrate Judge Jan M. Adler.
18 Counsel or any party representing himself or herself shall lodge confidential
19 settlement briefs directly to chambers by **October 23, 2017**. All parties are
20 ordered to read and to fully comply with the Chamber Rules of the assigned
21 magistrate judge.

22 10. In jury trial cases before the Honorable Roger T. Benitez, neither
23 party, unless otherwise ordered by the Court, is required to file Memoranda of
24 Contentions of Fact and Law pursuant to Civil Local Rule 16.1(f)(2).

25 11. Counsel shall comply with the pre-trial disclosure requirements of
26 Federal Rule of Civil Procedure 26(a)(3) by **November 13, 2017**. Failure to
27 comply with these disclosure requirements could result in evidence preclusion or
28 other sanctions under Federal Rule of Civil Procedure 37.

1 12. Counsel shall meet and take the action required by Civil Local Rule
2 16.1(f)(4) by **November 27, 2017**. At this meeting, counsel shall discuss and
3 attempt to enter into stipulations and agreements resulting in simplification of the
4 triable issues. Counsel shall exchange copies and/or display all exhibits other
5 than those to be used for impeachment. The exhibits shall be prepared in
6 accordance with Civil Local Rule 16.1(f)(4)(c). Counsel shall note any objections
7 they have to any other parties' Pretrial Disclosures under Federal Rule of Civil
8 Procedure 26(a)(3). Counsel shall cooperate in the preparation of the proposed
9 pretrial conference order.

10 13. Counsel for plaintiff will be responsible for preparing the pretrial order
11 and arranging the meetings of counsel pursuant to Civil Local Rule 16.1(f). By
12 **December 4, 2017**, plaintiff's counsel must provide opposing counsel with the
13 proposed pretrial order for review and approval. Opposing counsel must
14 communicate promptly with plaintiff's attorney concerning any objections to form
15 or content of the pretrial order, and both parties shall attempt promptly to resolve
16 their differences, if any, concerning the order.

17 14. The Proposed Final Pretrial Conference Order, including objections to
18 any other parties' Federal Rule of Civil Procedure 26(a)(3) Pretrial Disclosures
19 shall be prepared, served and lodged with the assigned district judge by
20 **December 11, 2017**, and shall be in the form prescribed in and comply with Civil
21 Local Rule 16.1(f)(6).

22 15. The final Pretrial Conference is scheduled on the calendar of the
23 **Honorable Roger T. Benitez** on **December 18, 2017** at **10:30 a.m.**

24 16. The parties must review the chambers' rules for the assigned district
25 judge and magistrate judge.

26 17. A post trial settlement conference before a magistrate judge may be
27 held within 30 days of verdict in the case.

28 18. The dates and times set forth herein will not be modified except for

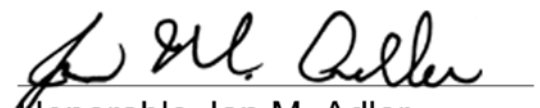
1 good cause shown.

2 19. Briefs or memoranda in support of or in opposition to any pending
3 motion shall not exceed twenty-five (25) pages in length without leave of a district
4 court judge. No reply memorandum shall exceed ten (10) pages without leave of
5 a district court judge. Briefs and memoranda exceeding ten (10) pages in length
6 shall have a table of contents and a table of authorities cited.

7 20. Plaintiff's counsel shall serve a copy of this order on all parties that
8 enter this case hereafter.

9 **IT IS SO ORDERED.**

10 Dated: August 31, 2016

11 
12 Honorable Jan M. Adler
13 United States Magistrate Judge
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